

BEFORE THE  
POSTAL RATE COMMISSION  
WASHINGTON, D.C. 20268-0001

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POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY

POSTAL RATE AND FEE CHANGES, 2000

Docket No. R2000-1

MOTION OF UNITED STATES POSTAL SERVICE  
FOR WAIVER AND FOR PROTECTIVE CONDITIONS  
FOR ANALYSIS OF WITNESS YEZER  
(January 12, 2000)

The United States Postal Service hereby moves that the Commission waive the relevant portions of rules 31(k) and 54(o) with respect to the econometric analysis conducted by witness Yezer, as well as the cost and box count data, by ZIP Code, used by witness Kaneer. The Postal Service also requests that the Commission establish protective conditions to govern the provision of these materials.

Witness Yezer's analysis of real estate costs, used by witness Kaneer for the purpose of setting post office box fees, is of commercial value. The Postal Service's intellectual property counsel has opined that the analysis may be patentable and that there are issues of copyright and trade secrets involved. Counsel has further advised that, in order to protect the Postal Service's intellectual property rights, the material should not be disseminated publicly. Accordingly, the Postal Service has not provided the input or output data, or other documentation of witness Yezer's analysis to accompany his testimony, as we normally would. Because witness Kaneer's input data include witness Yezer's output data, that information has also not been provided with the filing. Moreover, witness Yezer's output data, as well as total box service costs and box count information developed by witness Kaneer, are broken down by ZIP Code (which is the same as facility in many cases). The Postal Service considers such

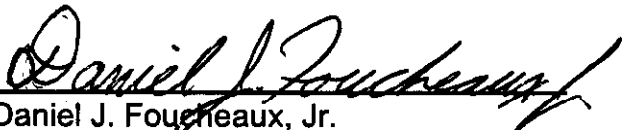
facility-specific data to be commercially sensitive, especially in light of its value to competitors of post office box service in placing and designing their facilities.

In order to provide this material for the use of the participants and the Commission in this proceeding, the Postal Service is requesting the Commission to adopt the attached protective conditions. Similar conditions have been used in recent cases, including the previous Mailing Online case, Docket No. MC98-1.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorney:

  
Daniel J. Fouchaux, Jr.  
Chief Counsel, Ratemaking

475 L'Enfant Plaza West, S.W.  
Washington, D.C. 20260-1137  
(202) 268-2989  
January 12, 2000

## STATEMENT OF COMPLIANCE WITH PROTECTIVE CONDITIONS

The following protective conditions limit access to the material filed as Library References USPS-LR-I-\_\_\_\_ and \_\_\_\_ (hereinafter, "these materials"). Individuals seeking to obtain access to those materials must agree to comply with these conditions, and complete the attached certifications.

1. Only those persons who are either:
  - (a) employees of the Postal Rate Commission (including the Office of the Consumer Advocate) with a need-to-know; or
  - (b) a participant in Postal Rate Commission Docket No. R2000-1; or a person employed by such a participant, or acting as agent, consultant, contractor, affiliated person, or other representative of such participant for purposes related to the litigation of Docket No. R2000-1; shall be granted access to these materials. However, no person who might gain commercial benefit or competitive advantage from access to or use of these materials shall be granted access to them. This includes persons involved in competitive decision-making for any entity that might gain commercial benefit competitive advantage from use of this information. "Involved in competitive decision-making" includes consulting on marketing or advertising strategies, pricing, product research and development, product design or the competitive structuring and composition of bids, offers or proposals.
2. No person granted access to these materials is permitted to disseminate those materials in whole or in part to any person not authorized to obtain access under these conditions.
3. The final date of any participant's access shall be
  - (a) the date on which the Postal Rate Commission closes the evidentiary record in Docket No. R2000-1; or
  - (b) the date on which that participant formally withdraws from Docket No. R2000-1; or
  - (c) the last date on which the person who obtains access is under contract or retained or otherwise affiliated with the Docket No. R2000-1 participant on whose behalf that person obtains access, whichever comes first. The participant immediately shall notify the Postal Rate Commission and United States Postal Service counsel in Docket No. R2000-1 of the
4. Immediately after the Commission issues its last recommended decision in Docket No. R2000-1, a participant (and any person working on behalf of that

participant) who has obtained a copy of these materials shall certify to the Commission:

- (a) that the copy was maintained in accordance with these conditions (or others established by the Commission); and
  - (b) that the copy (and any duplicates) either have been destroyed or returned to the Commission.
5. The duties of any persons obtaining access to these materials shall apply to material disclosed or duplicated in writing, orally, electronically or otherwise, by any means, format, or medium. These duties shall apply to the disclosure of excerpts from or parts of the document, as well as to the entire document.
  6. All persons who obtain access to these materials are required to protect the materials by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized disclosure of the document as those persons, in the ordinary course of business, would be expected to use to protect their own proprietary material or trade secrets and other internal, confidential, commercially-sensitive, and privileged information.
  7. These conditions shall apply to any revised, amended, or supplemental versions of these materials provided in Docket No. R2000-1.
  8. The duty of nondisclosure of anyone obtaining access to these materials is continuing, terminable only by specific order of the Commission.
  9. Any Docket No. R2000-1 participant or other person seeking access to these materials, by requesting access, consents to these or such other conditions as the Commission may approve.

## CERTIFICATION

The undersigned represents that:

Access to materials provided in Docket No. R2000-1 by the Postal Service in Library References USPS-LR-I-\_\_\_\_ and \_\_\_\_ (hereinafter, "these materials" or "the information") has been authorized by the Commission.

The copy obtained is marked on every page with my name.

I agree to use the information only for purposes of analyzing matters at issue in Docket No. R2000-1.

I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain in strict confidence these materials in accordance with all of the protective conditions set out above.

Name \_\_\_\_\_

Firm \_\_\_\_\_

Title \_\_\_\_\_

Representing \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

## CERTIFICATION UPON RETURN OF PROTECTED MATERIALS

Pursuant to the Certification which I previously filed with the Commission regarding information provided in Docket No. R2000-1 by the Postal Service in Library References USPS-LR-I-\_\_\_\_ and \_\_\_\_ (hereinafter, "these materials" or "the information"), received on behalf of myself and/or the party which I represent (as indicated below), I affirm as follows:

1. I have remained eligible to receive access to materials under paragraph 1 of the protective conditions throughout the period those materials have been in my possession. Further, I have complied with all conditions, and have maintained these materials in strict confidence in accordance with all of the protective conditions set out above.
2. I have used the information only for purposes of analyzing matters at issue in Docket No. R2000-1.
3. I have returned the information to the Postal Rate Commission.
4. I have surrendered to the Postal Rate Commission/destroyed all copies of the information which I obtained or which have been made from that information.

Name \_\_\_\_\_

Firm \_\_\_\_\_

Title \_\_\_\_\_

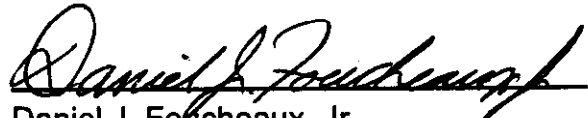
Representing \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.



Daniel J. Foucheaux, Jr.

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January 12, 2000